IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2607 OF 2005.

M/s.Mahavir Metal Industries,
Mumbai. ... Appellant.

V/s.

Commissioner of Central Excise
& Customs, Surat-II & another. ... Respondents.

V.P.Sawant for the appellant.

Mrs.N.V.Masurkar i/b. T.C.Kaushik
for the respondents.

CORAM : V.C.DAGA AND J.P.DEVADHAR, JJ.

DATED : 13th July 2006.

P.C. :

. Heard learned counsel for the appellant.

2. The findings of fact recorded by the Tribunal revolve around the appreciation of the confessional statement made by one of the partners/directors of the appellant, viz.; Shri Mohanlal B. Jain.

3. It was open for the appellant to produce previous record of its production to establish its burning loss. No such attempt was made by the appellant though record was available with it. In absence of any material on record, if the Tribunal has confirmed demand of penalty apportioning burning

loss @ 1%, we do not find any fault with the view taken by the Tribunal.

4. In the above view of the matter, no substantial question of law is involved.

5. Appeal is dismissed in limine with no order as to costs.

(J.P.DEVADHAR, J.) **(V.C.DAGA J.)**